



THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
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September 30, 2024

**VIA ECF**

Honorable Ann M. Donnelly  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza  
Brooklyn, NY 11201

Re: Etan Leibovitz v. Procida, et al., 24-CV-4779 (AMD) (LB)

Your Honor:

I am an Assistant Corporation Counsel in the office of Muriel Goode-Trufant, Acting Corporation Counsel of the City of New York, and the attorney for defendant Assistant District Attorney Phyllis Weiss (hereinafter “ADA Weiss”), in the above-captioned action. ADA Weiss respectfully requests that the scheduling order for her anticipated motion to dismiss be stayed until she has an opportunity to review and evaluate the allegations in plaintiff’s proposed amended complaint.

By way of background, plaintiff filed the Complaint in this action on July 9, 2024 alleging, *inter alia*, a claim of malicious prosecution against ADA Weiss for her role in prosecuting charges stemming from plaintiff’s November 15, 2022 arrest. (See ECF No. 1) Plaintiff also asserts a due process claim against ADA Weiss for allegedly conspiring with defendants Judge Katsanos, and Court Officers Coy and Zebro. (See id.).

On August 12, 2024, ADA Weiss requested an extension of time to answer or respond to the Complaint from August 9, 2024 to October 8, 2024. (See ECF No. 17 ). On August 13, 2024, the Court extended ADA Weiss’s time to answer or otherwise respond to the Complaint until September 13, 2024. (See ECF No. 18). On September 11, 2024, ADA Weiss filed a proposed briefing schedule for her anticipated motion to dismiss the Complaint. (See ECF No. 29). On September 12, 2024, Your Honor endorsed this briefing schedule. (See Docket Entry dated September 12, 2024).

On September 26, 2024, plaintiff filed a letter requesting an “enlargement of time” to move for leave to file an amended complaint. On the same day, the State Defendants

filed a letter in response, and requested that, if leave is granted, plaintiff should be directed to file his proposed amended complaint as an exhibit to the motion. (See ECF No. 31). On September 27, 2024, Magistrate Judge Bloom granted plaintiff's request, stayed the briefing schedule for the State Defendants' motion to dismiss, directed plaintiff to file his motion for leave to amend by October 27, 2024, and further directed plaintiff to attach the proposed amended complaint to his motion. (See Docket Entry dated September 27, 2024).

In his September 26, 2024 letter plaintiff indicated that the "proposed amendment would include additional details related to my first false arrest on November 15<sup>th</sup>, 2022." (See ECF No. 30). Plaintiff also indicated that the proposed amended complaint will include allegations relating to two additional arrests on November 1<sup>st</sup> 2023, and March 25<sup>th</sup>, 2024. (See id.) Plaintiff further indicated that he intends to raise these claims against ADA Weiss, and name additional defendants from the Queens County District Attorney's Office. (See id.) Given that plaintiff's proposed amendments may add additional claims against ADA Weiss, ADA Weiss respectfully requests a stay of the briefing schedule for her motion to dismiss until such time as plaintiff files his proposed amended complaint. ADA Weiss notes, that, to date, however, plaintiff has not provided this Office with a draft of his proposed amended complaint nor has plaintiff sought ADA Weiss's consent to the filing of any amended complaint.<sup>1</sup>

As a result of the foregoing Defendant respectfully requests that the briefing schedule for her motion to dismiss be stayed *sine die*. Defendant thanks the Court for its time and consideration herein.

Respectfully submitted,

/s/ Mamoon Saleemi

Mamoon Saleemi  
Assistant Corporation Counsel  
Special Federal Litigation Division

cc: **VIA POSTAL MAIL**  
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<sup>1</sup> ADA Weiss reserves the right to oppose Plaintiff's motion for leave to amend based on her review and evaluation of the allegations in the proposed amended complaint.